

Senate Bill No. 419

CHAPTER 646

An act to amend Sections 32631, 32632, 32633, 32634, 32639, 32645, 32646, and 32661 of the Public Resources Code, relating to the San Diego River Conservancy.

[Approved by Governor October 13, 2007. Filed with
Secretary of State October 13, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 419, Kehoe. San Diego River Conservancy.

Existing law authorizes the San Diego River Conservancy to acquire and manage certain public lands in the San Diego River area. Existing law states that the San Diego River Parkway Coalition's Policy Committee and Citizen's Advisory Committee are developing a San Diego River Parkway Concept Plan.

This bill would revise those provisions to state that the conservancy has developed a Five Year Strategic and Infrastructure Plan that is consistent with the San Diego River Parkway Concept Plan.

The bill would revise the description of the San Diego River area to include tributaries of the San Diego River and historic flumes, as defined, emanating from the river, as well as certain other properties within the river's watershed. The bill would expand the purposes for which the conservancy was created by including the protection of historical and cultural resources.

The bill would also increase the membership of the conservancy from 9 to 11 voting members, by adding the Director of Parks and Recreation and one member of the Board of Supervisors of the County of San Diego, whose district includes the preponderance of the San Diego River watershed.

The bill would provide that the conservancy has no authority to levy a tax, regulate land use, or exercise the power of eminent domain. The bill would repeal language providing that an authorization to the conservancy to award grants would not become operative until the Legislature appropriates the necessary funds or until a bond act approved by the voters of the state includes an allocation for those purposes.

The people of the State of California do enact as follows:

SECTION 1. Section 32631 of the Public Resources Code is amended to read:

32631. (a) The San Diego River is a natural, historic, and recreational resource in the heart of San Diego. From its headwaters near the town of

Julian in east San Diego County, it runs 52 miles through Mission Valley and the first settlement in California at Old Town San Diego before it empties into the Pacific Ocean at Ocean Beach. The river has been subjected to intense development in some parts; it runs through one of San Diego's most populated neighborhoods and is in need of restoration, conservation, and enhancement all along its length. The area presents excellent opportunities for recreation, scientific research, historic preservation of the first aqueduct in the United States, and educational and cultural activities, of value to California and the nation. Reestablishing the cultural and historic connections between the San Diego River, Old Town San Diego State Historic Park, the Military Presidio, and the Kumeyaay Nation will provide the public with the opportunity to appreciate the state's historic beginnings.

(b) Given the opportunities available, the state recognizes the importance of holding this land in trust to be preserved and enhanced for the enjoyment of present and future generations.

(c) The San Diego River Conservancy has developed a Five Year Strategic and Infrastructure Plan which has been endorsed by its board of directors, as well as by the San Diego River Parkway Coalition, representing diverse state and local interests. The strategic plan is consistent with the San Diego River Parkway Concept Plan and outlines and establishes four programmatic areas: land conservation; recreation and education; natural and cultural resources preservation and restoration; and, water quality and natural flood conveyance.

SEC. 2. Section 32632 of the Public Resources Code is amended to read:

32632. For the purposes of this division, the following terms have the following meanings:

(a) "Conservancy" means the San Diego River Conservancy established by this division.

(b) "Fund" means the San Diego River Conservancy Fund established pursuant to Section 32657.

(c) "Governing board" means the governing board of the conservancy.

(d) "Historic flumes" means both of the following:

(1) The Padre Dam flume built by Native Americans along the San Diego River to convey water from the Mission Dam to the Mission San Diego de Alcalá in the early 1800s.

(2) The flume built by the San Diego Flume Company in the late 1880s to convey water from a diverting dam on the upper San Diego River to the eastern edge of the City of San Diego.

(e) "Local public agency" means a city, county, district, or joint powers agency.

(f) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501(c)(3) of the Internal Revenue Code, as amended, and that has among its principal charitable purposes the preservation of land for scientific, historic, educational, recreational, scenic, or open-space opportunities, the protection of the natural environment, or preservation or enhancement of wildlife.

(g) “San Diego River area” or “area” means those lands or other areas that are donated to, or otherwise acquired by, or operated by, the conservancy, which are located within one-half mile on either side of the thread of the river and its tributaries including the historic flumes emanating from the river, from its headwaters near Julian to the Pacific Ocean at Dog Beach in San Diego, and other properties within the watershed of the San Diego River that meet the intent of this division as approved on a case-by-case basis by a two-thirds majority vote of the governing board.

SEC. 3. Section 32633 of the Public Resources Code is amended to read:

32633. There is in the Resources Agency, the San Diego River Conservancy, which is created for the following purposes:

(a) To acquire and manage public lands within the San Diego River area, and to provide recreational opportunities, open space, wildlife habitat and species restoration and protection, wetland protection and restoration, protection of historical and cultural resources, and protection, maintenance and improvements of the quality of the waters in the San Diego River and its watershed, its tributaries and historic flumes emanating from the river for all beneficial uses, lands for educational uses within the area, and natural floodwater conveyance.

(b) To provide for the public’s enjoyment, and to enhance the recreational and educational experience and historic interpretation on public lands in the territory in a manner consistent with the protection of land and natural resources, as well as economic resources, in the area.

SEC. 4. Section 32634 of the Public Resources Code is amended to read:

32634. (a) The governing board of the conservancy shall consist of 11 voting members and two nonvoting members.

(b) The voting members of the board shall consist of the following:

(1) The Secretary of the Resources Agency, or his or her designee.

(2) The Director of Finance, or his or her designee.

(3) The Director of Parks and Recreation, or his or her designee.

(4) Five members of the public at large, three of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, and one of whom shall be appointed by the Speaker of the Assembly.

(5) The Mayor of San Diego.

(6) One member of the City Council of San Diego, elected by a majority of the membership of the council.

(7) One member of the Board of Supervisors of the County of San Diego, whose district includes the preponderance of the San Diego River watershed.

(c) The two nonvoting members shall consist of the following:

(1) The Executive Director of the Wildlife Conservation Board, or his or her designee.

(2) A representative selected by the San Diego Regional Water Quality Control Board.

(d) Two of the three initial appointments by the Governor pursuant to paragraph (4) of subdivision (b) shall be for three-year terms and the third

appointment shall be for a two-year term. All subsequent appointments shall be for four-year terms.

(e) No person shall continue as a member of the governing board if that person ceases to hold the office that qualifies that person for membership. Upon the occurrence of those events, the person's membership on the governing board shall automatically terminate.

SEC. 5. Section 32639 of the Public Resources Code is amended to read:

32639. The conservancy shall establish and maintain an office within the area. The conservancy may rent or own real and personal property and equipment pursuant to applicable statutes and regulations. The conservancy may not levy a tax or regulate land use.

SEC. 6. Section 32645 of the Public Resources Code is amended to read:

32645. The conservancy may take any of the following actions for the purposes of this division:

(a) Select and acquire real property or interests in real property in the name of the state pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

(b) Acquire interests in land by various means, including, but not limited to, land exchanges, easements, development rights, life estates, leases, and leaseback agreements.

(c) Accept and hold real property or an interest in real property that is acquired through gift, exchange, donation, or dedication.

(d) Local public agencies shall retain exclusive authority over all zoning or land use regulations within their jurisdiction.

SEC. 7. Section 32646 of the Public Resources Code is amended to read:

32646. Notwithstanding any other provision of law, the conservancy has the first right of refusal to acquire any public lands that are suitable for park and open space within the conservancy's jurisdiction when those lands become available. The conservancy may not exercise the power of eminent domain.

SEC. 8. Section 32661 of the Public Resources Code is amended to read:

32661. This division shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.